

SENATE BILL 757

D4, E1
HB 410/08 – JUD

0lr2681
CF 0lr1471

By: **Senators King, Forehand, Lenett, Madaleno, and Middleton**

Introduced and read first time: February 10, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Child Neglect – Penalties**

3 FOR the purpose of prohibiting a parent or other person who has permanent or
4 temporary care or custody or responsibility for supervision of a minor from
5 neglecting the minor in a manner that causes substantial risk of physical injury
6 to the minor, mental injury to the minor, or substantial risk of mental injury to
7 the minor; providing penalties for a violation of this Act; providing that it is an
8 affirmative defense to a charge of violating this Act that at the time of the
9 neglect there was a reasonable apprehension in the mind of the defendant that
10 acting to stop or prevent the neglect would result in substantial bodily harm to
11 the defendant or the minor; defining certain terms; and generally relating to
12 child neglect.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 3–601
16 Annotated Code of Maryland
17 (2002 Volume and 2009 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Criminal Law**

21 3–601.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) “Abuse” means physical injury sustained by a minor as a result of
24 cruel or inhumane treatment or as a result of a malicious act under circumstances

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 that indicate that the minor's health or welfare is harmed or threatened by the
2 treatment or act.

3 (3) "Family member" means a relative of a minor by blood, adoption,
4 or marriage.

5 (4) "Household member" means a person who lives with or is a regular
6 presence in a home of a minor at the time of the alleged abuse.

7 (5) **"MENTAL INJURY" MEANS THE OBSERVABLE, IDENTIFIABLE,
8 AND SUBSTANTIAL IMPAIRMENT OF A CHILD'S MENTAL OR PSYCHOLOGICAL
9 ABILITY TO FUNCTION.**

10 (6) (I) **"NEGLECT" MEANS A PATTERN OF FAILURE TO
11 PROVIDE NECESSARY ASSISTANCE AND RESOURCES FOR THE BASIC NEEDS OF A
12 MINOR, INCLUDING:**

- 13 1. **FOOD;**
- 14 2. **CLOTHING;**
- 15 3. **ESSENTIAL MEDICAL TREATMENT;**
- 16 4. **SHELTER; OR**
- 17 5. **SUPERVISION.**

18 (II) **"NEGLECT" DOES NOT INCLUDE, FOR THAT REASON
19 ALONE:**

20 1. **THE FAILURE TO PROVIDE FOR THE BASIC NEEDS
21 OF A MINOR AS A RESULT OF A LACK OF FINANCIAL RESOURCES; OR**

22 2. **THE FAILURE TO PROVIDE SPECIFIED MEDICAL
23 TREATMENT THAT CONFLICTS WITH THE PARENT'S OR GUARDIAN'S BONA FIDE
24 RELIGIOUS BELIEFS AND PRACTICES.**

25 **[(5)] (7) "Severe physical injury" means:**

- 26 (i) brain injury or bleeding within the skull;
- 27 (ii) starvation; or
- 28 (iii) physical injury that:

- 1 1. creates a substantial risk of death; or
- 2 2. causes permanent or protracted serious:
 - 3 A. disfigurement;
 - 4 B. loss of the function of any bodily member or organ; or
 - 5 C. impairment of the function of any bodily member or
6 organ.

7 (b) (1) A parent or other person who has permanent or temporary care or
8 custody or responsibility for the supervision of a minor may not cause abuse to the
9 minor that:

- 10 (i) results in the death of the minor; or
- 11 (ii) causes severe physical injury to the minor.

12 (2) Except as provided in subsection (c) of this section, a person who
13 violates paragraph (1) of this subsection is guilty of the felony of child abuse in the
14 first degree and on conviction is subject to:

- 15 (i) imprisonment not exceeding 25 years; or
- 16 (ii) if the violation results in the death of the victim,
17 imprisonment not exceeding 30 years.

18 (c) A person who violates this section after being convicted of a previous
19 violation of this section is guilty of a felony and on conviction is subject to:

- 20 (1) imprisonment not exceeding 25 years; or
- 21 (2) if the violation results in the death of the victim, imprisonment not
22 exceeding 30 years.

23 (d) (1) (i) A parent or other person who has permanent or temporary
24 care or custody or responsibility for the supervision of a minor may not cause abuse to
25 the minor.

26 (ii) A household member or family member may not cause abuse
27 to a minor.

28 (2) Except as provided in subsection (c) of this section, a person who
29 violates paragraph (1) of this subsection is guilty of the felony of child abuse in the
30 second degree and on conviction is subject to imprisonment not exceeding 15 years.

1 **(E) (1) A PARENT OR OTHER PERSON WHO HAS PERMANENT OR**
2 **TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF A**
3 **MINOR MAY NOT NEGLECT THE MINOR IN A MANNER THAT CAUSES:**

4 **(I) SUBSTANTIAL RISK OF PHYSICAL INJURY TO THE**
5 **MINOR;**

6 **(II) MENTAL INJURY TO THE MINOR; OR**

7 **(III) SUBSTANTIAL RISK OF MENTAL INJURY TO THE MINOR.**

8 **(2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS**
9 **SUBSECTION IS GUILTY OF THE FELONY OF CHILD NEGLECT AND ON**
10 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A**
11 **FINE NOT EXCEEDING \$10,000 OR BOTH.**

12 **(3) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE OF VIOLATING**
13 **PARAGRAPH (1) OF THIS SUBSECTION THAT AT THE TIME OF THE NEGLECT**
14 **THERE WAS A REASONABLE APPREHENSION IN THE MIND OF THE DEFENDANT**
15 **THAT ACTING TO STOP OR PREVENT THE NEGLECT WOULD RESULT IN**
16 **SUBSTANTIAL BODILY HARM TO THE DEFENDANT OR THE MINOR.**

17 **[(e)] (F)** A sentence imposed under this section may be separate from and
18 consecutive to or concurrent with a sentence for any crime based on the act
19 establishing the violation of this section.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2010.